

1 TAMI S. SMASON, CA Bar No. 120213  
tsmason@foley.com

2 ARCHANA R. ACHARYA, CA Bar No. 272989  
aacharya@foley.com

3 **FOLEY & LARDNER LLP**  
555 SOUTH FLOWER STREET, SUITE 3500  
4 LOS ANGELES, CA 90071-2411  
TELEPHONE: 213.972.4500  
5 FAX: 213.486.0065

6 GORDON DAVENPORT III, WI Bar No. 1013931  
(admitted pro hac vice) gdavenport@foley.com

7 **FOLEY & LARDNER LLP**  
150 EAST GILMAN STREET  
8 MADISON, WI 53703  
TELEPHONE: 608.257.5035  
9 FAX: 608.258.4258

10 JENA L. LEVIN, IL Bar No. 6300341  
(admitted pro hac vice) jlevin@foley.com

11 **FOLEY & LARDNER LLP**  
321 NORTH CLARK STREET, SUITE 2800  
12 CHICAGO, IL 60654  
TELEPHONE: 312.832.4500  
13 FAX: 312.832-4700

14 Attorneys for Defendant HYLAND'S INC.

15  
16 **UNITED STATES DISTRICT COURT**  
17 **CENTRAL DISTRICT OF CALIFORNIA**  
18

19 EDWARD SIMON, DC, INDIVIDUALLY  
20 AND ON BEHALF OF ALL OTHERS SIMILARLY  
SITUATED,

21 PLAINTIFF,

22 V.

23 HYLAND'S INC., A CALIFORNIA  
CORPORATION

24 DEFENDANT.  
25  
26  
27  
28

) CASE No: CV 2:13-7892 AB (VBKx)

) **DEFENDANT HYLAND'S, INC.'S STATUS**  
) **REPORT REGARDING PROGRESSION OF**  
) **SETTLEMENT APPROVAL PROCEEDINGS IN**  
) **RELATED CASE**

) **NEXT STATUS REPORT DUE: AUGUST 17,**  
) **2015**

) JUDGE: HON. ANDRE BIROTTE  
) 312 S. SPRING STREET, COURTROOM 4  
) LOS ANGELES, CA 90012  
)  
)  
)

1 This Court entered an order on April 6, 2015 (the “Stay Order”), removing this  
2 case from the Court’s active caseload and continuing the stay of this action pending  
3 conclusion of the settlement approval proceedings in a class action settlement in a related  
4 case captioned *Affiliated Health Care Associates, P.C. v. Handit2 Network, LLC, et al.*,  
5 Case No. 13-cv-5782, in the United States District Court for the Northern District of  
6 Illinois (the “Illinois Action”). [April 6, 2015 Order, Dkt. # 52.] The Stay Order requires  
7 the parties to file periodic status reports every sixty days advising this Court of the status  
8 and progression of the proceedings in Illinois.

9 The Court in the Illinois Action entered an order on August 13, 2014, granting  
10 preliminary approval of the class settlement and of the proposed form and manner of  
11 notice to the class (the “Preliminary Approval Order”). The Preliminary Approval Order  
12 also preliminarily enjoined every member of the settlement class, including the Plaintiff  
13 in this action, from commencing, prosecuting or continuing to pursue on behalf of any  
14 class any of the Released Claims, as that term is defined in the Settlement Agreement,  
15 against any of the defendants in the Illinois Action, including Hyland’s, until after the  
16 final approval hearing. Notice was given to the settlement class, and class members were  
17 given until December 15, 2014, to submit claims, requests for exclusion or objections.  
18 Edward Simon, DC (“Simon”), the Plaintiff in this case, filed objections to the  
19 settlement. The final hearing to determine whether the class settlement was fair,  
20 reasonable and adequate, and whether it should be approved by the court, occurred on  
21 January 26, 2015. Simon’s counsel appeared at the final hearing.

22 The Court granted final approval of the class settlement in the Illinois Action on  
23 January 26, 2015 [*see* Dkt. # 53-1, Jan. 26, 2015 Min. Order.] and entered an Order  
24 Finally Approving Settlement (“Final Approval Order”) on February 3, 2015 [*see* Dkt. #  
25 53-2, Final Approval Order]. The court overruled each of Simon’s objections. [*See* Dkt. #  
26 53-1 and 53-2.] The Final Approval Order provided that each member of the settlement  
27 class was deemed to have released and waived all of the Released Claims, as that term is  
28 defined in the Settlement Agreement, which specifically include all of the claims asserted

1 by Simon in this action. [Dkt. # 53-2, at ¶ 17.] Additionally, the Final Approval Order  
 2 includes a permanent injunction specifically enjoining Simon from continuing to pursue  
 3 the class claims alleged in this action. [Id. at ¶ 21.]

4 Simon filed a Notice of Appeal to the United States Court of Appeals for the  
 5 Seventh Circuit in the Illinois Action on February 20, 2015. [*See* Dkt. # 53-4, Docketing  
 6 Stmt. in App. Case No. 15-1329.] Following an appellate settlement conference, the  
 7 parties to the Illinois Action and Simon entered into a Settlement Agreement. [*See*  
 8 Exhibit A, Settlement Agreement.] The Settlement Agreement requires approval from the  
 9 Illinois Court, which has been granted. [*See* Exhibit B, June 12 Order Modifying the  
 10 Final Approval Orders.] Once the June 12 Order Modifying the Final Approval Orders  
 11 becomes final, payments will be made to Simon and his counsel, after which Simon  
 12 agrees he will dismiss this action. [*See* Exh. A at ¶¶ 2,4-5.] Hyland's will provide a  
 13 further status report on August 17, 2015, if Simon has not already dismissed this case at  
 14 that time.

15 DATE: JUNE 15, 2015

**FOLEY & LARDNER LLP**  
 TAMI S. SMASON  
 GORDON DAVENPORT III  
 JENA L. LEVIN  
 ARCHANA R. ACHARYA

19  
 20 By: /s/ Jena L. Levin  
 JENA L. LEVIN  
 Attorneys for Defendant  
 21 HYLAND'S INC.  
 22  
 23  
 24  
 25  
 26  
 27  
 28